

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-SJ-057
	)	
Three Angels Corp.	)	NAL/Acct. No.200332680001
Owner of Antenna Structure 1235917	)	
St. Thomas, United States Virgin Islands	)	FRN 0007441926
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** October 22, 2002

By the Enforcement Bureau, San Juan Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Three Angels Corporation (“Three Angels”), owner of antenna structure no. 1235917, apparently liable for a forfeiture in the amount of thirteen thousand dollars (\$13,000) for willful and repeated violation of Sections 17.4(a) and 17.21(a) of the Commission's Rules (“Rules”).<sup>1</sup> Specifically, we find Three Angels apparently liable for failing to register its antenna structure with the Commission and for failing to paint its antenna structure.

**II. BACKGROUND**

2. On or about August 28, 2000, Three Angels constructed the antenna supporting structure 1235917 located at 22A Estate Dorothea, St. Thomas, U.S. Virgin Islands. This structure is used as part of radio station WGOD, Charlotte Amalie, U.S. Virgin Islands. Three Angels is also the licensee of station WGOD.

3. On September 10, 2002, an agent from the Commission's San Juan Office observed Three Angels' antenna structure at or near coordinates 18° 21' 17.0" N / 064° 57' 58.0" W in St. Thomas, U.S. Virgin Islands. The structure was not painted or lighted and no Antenna Structure Registration (“ASR”) number was observable at or near the base of the structure. The Commission's ASR database showed no antenna structure registered at or near this location.

4. On September 11, 2002, the agent conducted an inspection of radio station WGOD and the associated antenna structure from which the FM broadcast station transmits its signal. The antenna structure was not painted or lighted. Three Angels was not able to produce any evidence that the structure was registered with the Commission, but did provide the agent with Federal Aviation Administration (“FAA”) Aeronautical Study No. 00-ASO-6223-OE which advised the applicant, Three Angels, of the need to mark (paint) and light the structure. Three Angels subsequently registered its antenna structure on September 17, 2002.

**III. DISCUSSION**

---

<sup>1</sup> 47 C.F.R. §§ 17.4(a) and 17.21(a).

5. Section 17.4(a) requires that effective July 1, 1996, the owner of any proposed or existing antenna structure that requires notice of proposed construction to the FAA must register the structure with the Commission. Three Angels' antenna structure required notice of proposed construction to the FAA, and thus required registration with the Commission, because the structure exceeded the height specifications in Section 17.7 of the Rules<sup>2</sup> as evidenced by the FAA determination of "No Hazard." From approximately August 28, 2000, until September 17, 2002, Three Angels failed to register its antenna structure with the Commission.

6. Section 17.21(a) requires that antenna structures be painted and lighted when they exceed 60.9 meters (200 ft.) in height above ground level or, as in the instant case, the structure requires special aeronautical study due to its close proximity to an airport. In addition, the FAA's determination of "No Hazard" for this structure specified that the structure be painted and lighted. Three Angels, as the owner of the antenna structure, is responsible for the structure's marking and lighting.<sup>3</sup> On September 10 and 11, 2002, Three Angels' antenna structure was not painted.

7. Based on the evidence before us, we find Three Angels willfully<sup>4</sup> and repeatedly<sup>5</sup> violated Sections 17.4(a) and 17.21(a) by failing to register its antenna structure with the Commission and by failing to mark (paint) the structure.

8. Pursuant to Section 1.80(b)(4) of the Rules,<sup>6</sup> the base forfeiture amount for failure to mark an antenna structure is \$10,000, and for failure to register an antenna structure is \$3000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>7</sup> Considering the entire record and applying the factors listed above, this case warrants a \$13,000 forfeiture.

#### IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>8</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>9</sup> Three Angels Corp. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of thirteen thousand dollars (\$13,000) for willful and repeated violation of Sections 17.4(a) and 17.21(a) of the Rules by failing to paint and register its antenna

---

<sup>2</sup> 47 C.F.R. § 17.7.

<sup>3</sup> See 47 C.F.R. § 17.6.

<sup>4</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>5</sup> The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

<sup>6</sup> 47 C.F.R. § 1.80(b)(4).

<sup>7</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>8</sup> 47 U.S.C. § 503(b).

<sup>9</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

structure located at 22A Estate Dorothea, St. Thomas, U.S. Virgin Islands.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Three Angels Corp SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>10</sup>

12. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

15. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Three Angels Corp. 22 Estate Dorothea, St. Thomas USVI 00803.

#### FEDERAL COMMUNICATIONS COMMISSION

---

<sup>10</sup> See 47 C.F.R. § 1.1914.

Reuben Jusino  
Resident Agent San Juan Office, Enforcement Bureau

Attachment